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IN THE THIRD JUDICIAL DISTRICT COURT, STATE OF UTAH  
SALT LAKE COUNTY, SALT LAKE DEPARTMENT

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STATE OF UTAH,	:	STATEMENT OF DEFENDANT
	:	IN SUPPORT OF PLEA IN ABEYANCE
Plaintiff,	:	_____ AND CERTIFICATE OF COUNSEL
	:	
vs.	:	Criminal No. 041900692
	:	
JUDY GIBSON,	:	
	:	
Defendant.	:	

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I, JUDY GIBSON, hereby acknowledge and certify that I have been advised of and that I

understand the following facts and rights:

**Notification of Charges**

I am pleading guilty to the following crime:

**Crime & Statutory  
Provision**

**Degree**

**Punishment  
Min/Max and/or  
Minimum Mandatory**

<p>A. UNLAWFUL DEALING OF PROPERTY BY A FIDUCIARY, §76-6-513(2) and/or (3)(a), Utah Code Ann. (1995, as amended)</p>	<p>2° Felony</p>	<p>\$10,000.00 fine and incarceration for a term not less than one (1) year nor more than 15 years</p>
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I have received a copy of the Information against me. I have read it, or had it read to me, and I understand the nature and the elements of crime to which I am pleading guilty.

The elements of the crime to which I am pleading guilty are:

I did knowingly or intentionally deal with property that had been entrusted to me as a fiduciary, or property of a governmental entity, public monies, or of a financial institution, in a manner which I knew was a violation of my duty and which involved substantial risk of loss or detriment to the owner or to a person for whose benefit the property was entrusted; **and/or** acting as a fiduciary, without permission of the owner of the property or some other person with authority to give permission, pledged as collateral for a personal loan, or as collateral for the benefit of some party, other than the owner or the person for whose benefit the property was entrusted, the property that has been entrusted to the fiduciary.

I understand that by pleading guilty I will be admitting that I committed the crime listed

above. I stipulate and agree that the following facts describe my conduct and the conduct of

other persons for which I am criminally liable. These facts provide a basis for the court to accept

my guilty plea and prove the elements of the crime to which I am pleading guilty:

I took monies entrusted to me and mismanaged them and used a power of attorney to secure a

loan against Melba Wisdom's property without her permission.

### **Waiver of Constitutional Rights**

I am entering these pleas voluntarily. I understand that I have the following rights under

the constitutions of Utah and the United States. I also understand that if I plead guilty I will give

up all the following rights:

**Counsel:** I know that I have the right to be represented by an attorney and that if I cannot

afford one, an attorney will be appointed by the court at no cost to me. I understand that I might

later, if the judge determined that I was able, be required to pay for the appointed lawyer's

service to me.

I have not waived my right to counsel, I certify that I have read this statement and that I understand the nature and elements of the charges and crimes to which I am pleading guilty. I

also understand my rights in this case and other cases and the consequences of my guilty plea.

If I have not waived my right to counsel, my attorney is Richard Bird. My attorney and I have fully discussed this statement, my rights, and the consequences of my guilty plea.

**Jury Trial.** I know that I have a right to a speedy and public trial by an impartial (unbiased) jury and that I will be giving up that right by pleading guilty.

**Confrontation and cross-examination of witnesses.** I know that if I were to have a jury trial, a) I would have the right to see and observe the witnesses who testified against me and b) my attorney, or myself if I waived my right to an attorney, would have the opportunity to cross-examine all of the witnesses who testified against me.

**Right to compel witnesses.** I know that if I were to have a jury trial, I could call witnesses if I chose to and I would be able to obtain subpoenas requiring the attendance and testimony of those witnesses. If I could not afford to pay for the witnesses to appear, the State would pay those costs.

**Right to testify and privilege against self-incrimination.** I know that if I were to have a jury trial, I would have the right to testify on my own behalf. I also know that if I chose not to testify, no one could make me testify or make me give evidence against myself I also know that if I chose not to testify, the jury would be told that they could not hold my refusal to testify against me.

**Presumption of innocence and burden of proof.** I know that if I do not plead guilty, I am presumed innocent until the State proves that I am guilty of the charged crime. If I choose to fight the charges against me, I need only plead “not guilty,” and my case will be set for a trial. At a trial, the State would have the burden of proving each element of the charge beyond a reasonable doubt. If the trial is before a jury, the verdict must be unanimous, meaning that each juror would have to find me guilty.

I understand that if I plead guilty, I give up the presumption of innocence and will be admitting that I committed the crime stated above.

**Appeal.** I know that under the Utah Constitution, if I were convicted by a jury or judge, I would have the right to appeal my conviction and sentence. If I could not afford the costs of an appeal, the State would pay those costs for me. I understand that I am giving up my right to appeal my conviction if I plead guilty.

**I know and understand that by pleading guilty, I am waiving and giving up all the statutory and constitutional rights as explained above.**

### **Consequences of Entering a Guilty Plea**

**Potential penalties.** I know the maximum sentence that may be imposed for each crime to which I am pleading guilty. I know that by pleading guilty to a crime that carries a mandatory penalty, I will be subjecting myself to serving a mandatory penalty for that crime. I know my sentence may include a prison term, fine, or both.

I know that in addition to a fine, an eighty-five percent (85%) surcharge will be imposed. I also know that I may be ordered to make restitution to any victim(s) of my crime, including any restitution that may be owed on charges that are dismissed as part of a plea agreement.

**Consecutive/concurrent prison terms.** I know that if there is more than one crime involved, the sentences may be imposed one after another (consecutively), or

they may run at the same time (concurrently). I know that I may be charged an additional fine for each crime that I plead to. I also know that if I am on probation or parole, or awaiting sentencing on another offense of which I have been convicted or which I have plead guilty, my guilty plea(s) now may result in consecutive sentences being imposed on me. If the offense to which I am now pleading guilty occurred when I was imprisoned or on parole, I know the law requires the court to impose consecutive sentences unless the court finds and states on the record that consecutive sentences would be inappropriate.

**Plea bargain.** My guilty plea is the result of a plea bargain between myself and the prosecuting attorney. All the promises, duties, and provisions of the plea bargain, if any, are fully contained in this statement, including those explained below:

1. I will plead guilty to Count I, Unlawful Dealing of Property by a Fiduciary, a Second Degree Felony.
2. Count II, Theft by Deception, a Second Degree Felony, will be dismissed.
3. The parties agree there is at least \$55,220.00 due and owing in restitution in this matter. However, due to a dispute over other amounts, a restitution hearing is requested by the parties. The restitution amount to be determined at said hearing will cover the time period February 1, 2000 to October 31, 2003.
4. After determination at the restitution hearing, I will pay restitution in the amount of \$\_\_\_\_\_. Said restitution will be paid at the rate of at least \$\_\_\_\_\_.00 per month, beginning one month from the date of the restitution hearing, and will be sent to the Medicaid Fraud Control Unit, Attention: Linda Snow, 5272 College Drive, #200, Murray, Utah 84123, for the benefit of Melba Wisdom to the various credit cards and other creditors identified at the

restitution hearing.

5. I will be placed on probation for 36 months, during which time I will remain a law abiding citizen.

6. The State recommends no incarceration as long as defendant is in compliance with the terms of the Plea in Abeyance.

7. The case will be dismissed upon successful completion of these terms.

**Trial judge not bound.** I know that any charge or sentencing concession or recommendation of probation or suspended sentence, including a reduction of the charges for sentencing, made or sought by either defense counsel or the prosecuting attorney are not binding on the judge. I also know that any opinions they express to me as to what they believe the judge may do are not binding on the judge.

### **Defendant's Certification of Voluntariness**

I am entering this plea of my own free will and choice. No force, threats, of unlawful influence of any kind have been made to get me to plead guilty. No promises except those contained in this statement have been made to me.

I have read this statement, or I have had it read to me by an attorney, and I understand its contents and adopt each statement in it as my own. I know that I am free to change or delete anything contained in this statement, but I do not wish to make any changes because all of the statements are correct.

I am satisfied with the advice and assistance of my attorney.

I am \_\_\_\_\_ years of age. I have attended school through the \_\_\_\_\_ grade. I can read and understand the English language. If I do not understand English, an interpreter has been provided to me. I was not under the influence of any drugs, medication, or intoxicants which would impair my judgment when I decided to plead guilty. I am not presently under the influence of any drug, medication, or intoxicants which impair my judgment.

I believe myself to be of sound and discerning mind and to be mentally capable of understanding these proceedings and the consequences of my plea. I am free of any mental disease, defect, or impairment that would prevent me from understanding what I am doing or from knowingly, intelligently, and voluntarily entering my plea.

**I understand that if I want to withdraw my guilty plea, I must file a written motion to withdraw my plea within 30 days after I have been sentenced and final judgment has been entered. I will only be allowed to withdraw my plea if I show good cause. I will not be allowed to withdraw my plea after 30 days for any reason.**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
DEFENDANT



### **Certificate of Defense Attorney**

I certify that I am the attorney for JUDY GIBSON the defendant above, and that I know she has read the statement or that I have read it to her; I have discussed it with her and believe that she fully understands the meaning of its contents and is mentally and physically competent. To the best of my knowledge and belief, after an appropriate investigation, the elements of the crime and the factual synopsis of the defendant's criminal conduct are correctly stated; and these, along with the other representations and declarations made by the defendant in the foregoing affidavit, are accurate and true.

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ATTORNEY FOR DEFENDANT

Bar No. \_\_\_\_\_

### **Certificate of Prosecuting Attorney**

I certify that I am the attorney for the State of Utah in the case against JUDY GIBSON, defendant. I have reviewed this Statement of Defendant and find that the factual basis of the defendant's criminal conduct which constitutes the offense is true and correct. No improper inducements, threats, or coercion to encourage a plea has been offered defendant. The plea negotiations are fully contained in the Statement and in the attached Plea Agreement or as supplemented on the record before the Court. There is reasonable cause to believe that the evidence would support the conviction of defendant for the offense for which the plea is entered and that the acceptance of the plea would serve the public interest.

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PROSECUTION ATTORNEY  
Bar No. **5069**

## **Order**

Based on the facts set forth in the foregoing Statement and the certification of the defendant and counsel, and based on any oral representations in court, the Court witnesses the signatures and finds that the defendant's guilty plea is freely, knowingly, and voluntarily made.

IT IS HEREBY ORDERED that the defendant's guilty plea to the crime set forth in the Statement be accepted and entered.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

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JUDGE

11/2001

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